

Remarks

Claims 1-8 and 14-22 stand rejected under 35 U.S.C. Section 103(a) in view of the proposed combination of U.S. Patent 6,672,026 to Bradbury et al. and U.S. Patent 6,058,262 to Kawas et al. Claim 9 stands rejected under 35 U.S.C. Section 103(a) in view of the proposed combination of U.S. Patent 6,672,026 to Bradbury et al., U.S. Patent 6,058,262 to Kawas et al. and U.S. Patent 6,320,812 to Cook III et al. Claims 10-13 stand rejected under 35 U.S.C. Section 102(e) in view of U.S. Patent 6,672,026 to Bradbury et al. For the reasons set forth as follows, applicant respectfully traverses the rejection of all of these claims.

Submission of Affidavit

The Affidavit of Mark Baines is submitted under 37 C.F.R. Section 1.131 confirming that the invention claimed in presently pending claims 1-22, was conceived prior to the filing date of the Bradbury et al. reference and was continuously and diligently worked on on a daily basis until reduction to practice occurred in November of 2000. Thus, U.S. Patent 6,672,026 to Bradbury et al. does not constitute prior art to the present application and the Examiner is requested to reconsider and withdraw all rejections based upon that reference.

U.S. Patent 6,672,026 to Bradbury et al. is Not Necessarily Prior Art

Initially, applicant challenges the relevance of U.S. Patent 6,672,026 to Bradbury et al. as prior art. This patent is a continuation-in-part of U.S. Application Serial No. 09/828,504, filed April 5, 2001, which in turn claims the benefit of a Provisional Application No. 60/194965 as filed on April 5, 2000. The present application was submitted December 22, 2002, a date which is prior to the filing date of the continuation-in-part and filing date which is prior to the submission of the parent application Serial No. 09/828,504. Therefore, only the Provisional Application could potentially count as prior art under 35 U.S.C. Section 102 since any material added to either

the continuation-in-part application or the current application is submitted subsequent to the filing date of the present application. The provisional application is, to applicant's information and belief, unpublished, and it is difficult if not impossible for applicant to separate the disclosure of the provisional application from the matter added in the continuation-in-part and from any matter potentially added during the filing of the parent application. Applicant submits it is incumbent upon the Examiner to confirm that all material relied upon in making the rejections in the outstanding Office Action is actually present in U.S. Patent 6,672,026 to Bradbury et al. both in terms of content, disclosure and arrangement. Essentially, applicant assumes that the continuation-in-part has added new matter that is not prior art to the present application and submits that the parent application may also have added new matter which is not in the provisional application and which is not prior art to the present application. Any such material is not apparent from the patent and applicant challenges the premise that U.S. Patent is in fact prior art to this application. The Examiner is requested to demonstrate that any disclosures relied upon in the rejections of this Office Action were in fact present in the same form and arrangement as in the provisional application.

Respectfully Submitted,



William O'Driscoll
Registration No. 33,294

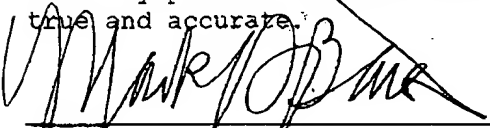
Telephone Number: (608) 787-2538



AFFIDAVIT OF MARK D. BAINES UNDER 37 C.F.R. 1.131

1. I am Mark D. Baines, an inventor of the present application.
2. I have reviewed claims 1-22 of the pending patent application as are presently on file.
3. The subject matter of these claims 1-22 was conceived prior to April 5, 2000.
4. On April 4, 2000, the effort to reduce the claimed invention to practice was ongoing. This is evidenced by the attached e-mail Exhibit 1, dated Tuesday, April 4, 2000, from Harold Long to myself and to Calvin Pasvogel, another inventor of the present application, indicating that sales order information was being converted into XML files as part of developing a working process and thereby reducing the claimed invention to practice.
5. The reduction to practice efforts diligently continued on a daily and continuous basis from April 4, 2000 until the reduction to practice was completed in approximately November of 2000.

As of my present information and belief, the foregoing statements are true and accurate.

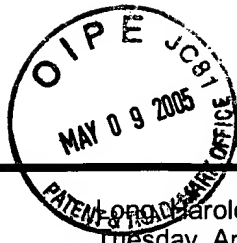


Mark D. Baines

5/2/05

Date

O'Driscoll, Bill



From: Bill O'Driscoll
Sent: Tuesday, April 04, 2000 11:37 AM
To: 'Calvin Pasvogel'; Baines, Mark
Cc: Schmidt, Don
Subject: FW: XML and Dell order form

FYI

Arnie's going to try to get the FTP site set up in LAX. I'll keep you advised.

I've made the necessary changes to the specfile_xml table to track whether or not a XML file needs to be recreated and made necessary modifications to the SQL loader control file. All that remains is the modification of the PL/SQL script that creates the files. The structure of the specfile_xml table is as follows:

```
SQL> desc specfile_xml;
Name                               Null?      Type
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SALES_ORDER_NO                     CHAR(7)
FDL_FCAT                           CHAR(4)
FDL_FCOD                           CHAR(6)
XML_FILE_CREATED                   CHAR(1)
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-Harold-